UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,929	07/05/2001	Yoshiko Tamaki	ASAM.0011	1831

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EXAMINER
DOAN, DUYEN MY

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/897,929	TAMAKI ET AL.
	Examiner	Art Unit	
	Duyen M. Doan	2143	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 March 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-28</u> is/are pending in the application.

    4a) Of the above claim(s) <u>22-28</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>05 July 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date <u>7/5/01, 8/20/2002</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Detail Action

Claims 1-21 are presented for examination.

Claims 22-28 are withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Maruyama et al (us pat 6857025) (hereinafter Maruyama) in view of Choquier et al (us

pat 5774668) (hereinafter Choquier).

As regarding claim 1, Maruyama discloses inputting from each user a service

level condition contracted with the computer system (col.3, lines 21-67); assigning each

service level condition with an identifier for identifying the service level condition (col.3,

lines 21-67); inputting information necessary for identifying a user related to each input

packet from the input packet (col.3, lines 21-67, customer have sla for each type or

class or traffic, some source of table or database are used to differentiate one

customer's traffic class from another customer' traffic class); forming a user

identification table storing information on a correspondence between each identifier and

each information; and by referring to the user identification table, acquiring the identifier

from a received input packet, and by referring to the allocation definition table,

transferring the received input packet to the computer allocated to the acquired identifier

.(col.3, lines 21-67, customer have sla for each type or class or traffic, some source of

table or database are used to differentiate one customer's traffic class from another

customer' traffic class).

Maruyama does not expressly disclose classifying the plurality of computers into

groups each corresponding to each identifier in accordance with the service level

condition, and forming an allocation definition table storing information on a

correspondence between each identifier and at least one computer assigned to the

identifier. Choquier teaches classifying the plurality of computers into groups each

corresponding to each identifier in accordance with the service level condition, and

forming an allocation definition table storing information on a correspondence between

each identifier and at least one computer assigned to the identifier (col.1, lines 41-67 to

col.2, lines 1-52, col.10, lines 20-33, unique ID of the servers that are currently handling

the requested services).

It would have been obvious to one with ordinary skill in the art at the time of the

invention was made to combine the teaching of Choquier with the method of Maruyama

to classify plurality of computers into group corresponding with service level condition

for the purpose of allowing the capacity of the network to be scaled as the number of

end users increase over time. Dynamically balancing the processing load among the

application servers and dynamically allocating processing resources (such as application servers) to specific on-line services (see Choquier col.1, lines 45-63).

As regarding claim 2, Marayama-Choquier disclose the computer system further comprises a load allocating apparatus for distributing loads of the plurality of computers, and the allocation definition table is set to the load allocating apparatus (see Choquier col.2, lines 43-67). The same motivation was utilized in claim 1 applied equally well to claim 2.

As regarding claim 3, the limitations are similar to claim 1. Therefore rejected for the same rationale as claim 1.

As regarding claim 4, Marayama-Choquier disclose the input packet is a request packet from a user, and the information in the user identification table necessary for identifying the user related to the request packet is a transmission source IP address of the request packet (see Marayama col.3, lines 30-67, incoming IP packet are classified into various class, the conventional IP packet have source address and destination address).

As regarding claim 5, claim 5 is duplicated of claim 4. Therefore rejected for the same rationale as claim 4.

As regarding claim 8, the limitations are similar to claim 1, therefore rejected for the same rationale as claim 1.

As regarding claim 9, the limitations are similar to claim 1, therefore rejected for the same rationale as claim 1.

As regarding claim 10, the limitations are similar to claim 9, therefore rejected

for the same rationale as claim 9.

Claims 6- 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Boivie et al (us pat 6842783) (hereinafter Boivie) in view of Howes et al (us pat

6445704) (hereinafter Howes).

As regarding claim 6, Boivie discloses urging each user to input a service level

condition as a portion of the use contract, the service level condition including at least

upper and lower limits of the number of computers allocated to process the process

request packet supplied from each user (col.4, lines 4-36); and allocating a computer for

processing the process request packet supplied from each user in accordance with the

input service level condition, and recording a history of the number of allocated

computers (col.4, lines 4-36, col.5, lines 20-34).   Boivie does not disclose setting from

each user a virtual IP address to be use as an access destination address. Howes

teaches the use of virtual IP address (col.4, lines 47-58).

It would have been obvious to one with ordinary skill in the art at the time the

invention was made to combine the teaching of Howes with the method of Boivie to use

the virtual IP address as the destination address for the purpose of efficiently allocating

or load balancing new connections from outside client among group of physical

machines that are available to handle connections and hiding the physical machine IP

address from the outside clients (see Howes col.2, lines 32-67).

As regarding claim 7, the limitations are similar to claim 6 the only different is

the service level condition including at least a use rate of computers allocated to

process the process request packet supplied from each user instead of number of

allocated computers. Bovie disclose the service level condition including at least a use

rate of computers allocated to process the process request packet supplied from each

user (col.8, lines 5-27).

Claims 13-14, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Boivie et al (us pat 6842783) (hereinafter Boivie) as applied to claim 12, in view of

Choquier et al (us pat 5774668) (hereinafter Choquier).

As regarding claim 13, Boivie discloses all the limitations of claim 12, but fail to

disclose a plurality of load allocating means, and the method further comprises the

steps of setting the changed computer allocation table of each user to the load

allocating means, and of standing by until the setting at all of the plurality of load

allocating means is completed. Choquier teaches a plurality of load allocating means,

and the method further comprises the steps of setting the changed computer allocation

table of each user to the load allocating means, and of standing by until the setting at all

of the plurality of load allocating means is completed (col.1, lines 41-67, col.2, lines 1-

52).

It would have been obvious to one with ordinary skill in the art at the time the

invention was made to combine the teaching of Choquier with the method of Boivie to

have the setting change in computer allocation table of each user and standing by until

the setting at all of the plurality of load allocating means is completed for the purpose of

updating service application without temporarily taking the service off-line and allowing

a user to access multiple services at a time (see Choquier col.1, lines 25-33).

As regarding claim 14, Boivie-Choquier disclose the plurality of computers

include a plurality of computer groups having different functions, the computer allocation

allocates computers belonging to the same computer group, and when the computer

resources of some computer group are to be increased, computers are selected from

the same computer group (col.1, lines 41-67, col.2, lines 1-67). The same motivation

was utilized in claim 13, applied equally well to claim 14.

As regarding claim 21, the limitations are similar to claim 13, therefore rejected

for the same rationale as claim 13.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-12, 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by

Boivie (us pat 6842783) (hereinafter Boivie).

As regarding claim 11, Boivie discloses monitoring an operation state of the

computer resources (col.6, lines 1-32, col.8, lines 5-27); comparing the operation state

with a service level of each user (col.6, lines 1-32, col.8, lines 5-27); judging from the

comparison whether a computer allocation to each user is to be changed (col.6, lines 1-

32, col.8, lines 5-27); changing a computer allocation table of each user(col.6, lines 1-

32, col.8, lines 5-27); and changing charge information in accordance with a change in

the computer allocation (col.6, lines 1-32, col.8, lines 5-27).

As regarding claim 12, the limitations are similar to claim 11, therefore rejected

for the same rationale as claim 11.

As regarding claim 15, the limitations are similar to claim 11, except that claim

15 speak of "instructing to change the root file name of each computer". However the

rationale for the rejection of claim 11 still holds for claim 15, because CBM selects a

request from the queues, select one of the servers, if the a different server is selected

then the root file name must be different.

As regarding claim 16, the limitations are similar to claim 12, therefore rejected

for the same rationale as claim 12.

As regarding claim 17, Boivie discloses means for monitoring the operation

state of the computer resources (col.6, lines 1-32, col.8, lines 5-27); and means for

changing charge information in accordance with a change in the computer allocation

(col.6, lines 1-32, col.8, lines 5-27).

As regarding claim 18, the limitations are similar to claim 11. Claim 18 speaks "changing a time divisional operation rate table of each user" rather than "changing computer allocation table". However the rationale for the rejection of claim 11 still hold for claim 18 for the following reasons: Boivie cited depend on customer usage and customer's SLA the bit/second rate can be adjusted (see Boivie col.8, lines 5-27).

As regarding claim 19, the limitations are similar to claim 18, therefore rejected for the same rationale as claim 18.

As regarding claim 20, the limitations are similar to claim 12, therefore rejected for the same rationale as claim 12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M. Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner
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